IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 23RD NOVEMBER 2006 / 2ND AGRAHAYANA 1928

Crl.Rev.Pet.No. 4095 of 2006()

CRA.4/2006 of ADDL.SESSIONS COURT (FAST TRACK-1), ALAPPUZHA
CC.463/2005 of CHIEF JUDICIAL MAGISTRATE, ALAPPUZHA

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REVN. PETITIONER: APPELLANT/ACCUSED

MATHEW THOMAS, S/O. K.T.THOMAS,
KANDAPARAMBIL POONJAR, THEKKEKARA P.O.,
KOTTAYAM DISTRICT.

BY ADV. SRI.GEORGEKUTTY MATHEW

RESPONDENTS: RESPONDENTS/STATE AND COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. T.T.JOSEPH,
THAVARKADU KAINAKARI P.O., ALAPPUZHA.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 23/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

Crl. R.P. No.4095 of 2006

Dated this the 23rd day of November, 2006

ORDER

The petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and he was sentenced to undergo simple imprisonment for a period of three months and to pay a sum of Rs.2,60,000/- as compensation under Section 357 (3) of the Code of Criminal Procedure. It was further directed that in default of payment of compensation, the petitioner shall undergo simple imprisonment for three months. The petitioner challenged the conviction and sentence in appeal. The appellate court confirmed the conviction and sentence and dismissed the appeal.

2. The learned counsel for the petitioner made a limited submission that the sentence imposed on the petitioner may be altered and reduced to imprisonment till the rising of the court and that three months' time may be granted to pay the compensation amount. It is also submitted that as directed by the appellate court, a sum of Rs.50,000/- was deposited before

the trial court. Since the conviction is not being interfered with, I do not think it is necessary to issue notice to the second respondent/complainant. Taking note of the facts and circumstance of the case and the submission made by the learned counsel for the petitioner, Crl.R.P. is disposed of in the following manner:-

(1) The conviction imposed by the trial court and confirmed by the appellate court shall stand confirmed.

(2) The sentence of imprisonment is reduced to imprisonment till the rising of the court.

(3) The direction to pay compensation of Rs.2,60,000/- is confirmed. However the petitioner is granted three months' time to pay the compensation amount. If the compensation is not paid within time, the petitioner shall undergo simple imprisonment for a period of three months.

(4) The petitioner shall appear before the trial court on 19.12.2006 to serve the imprisonment till the rising of the court and shall continue to appear as may be directed by the trial court till the compensation amount is paid.

(5) It is made clear that if the petitioner has made any deposit before the trial court as submitted by the learned counsel for the petitioner, the petitioner need pay only the balance amount of compensation.

K.T.SANKARAN,
JUDGE

csl